The opinion in support of the decision being entered today is not binding precedent of the Board.

Paper 134

By: Trial Section Merits Panel

Board of Patent Appeals and Interferences

U.S. Patent and Trademark Office

P.O. Box 1450

Alexandria, VA 22313-1450

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September 15, 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

(Administrative Patent Judge Carol A. Spiegel)

INCYTE PHARMACEUTICALS, INC.

Junior party, U.S. Patent 5,780,235

٧.

DEAN A. FALB and MICHAEL A. GIMBRONE, JR.

Senior party, Application 08/826,248

Patent Interference No. 104,675

Before: SCHAFER, TORCZON and SPIEGEL, Administrative Patent Judges.

SPIEGEL, Administrative Patent Judge.

JUDGMENT PURSUANT TO 37 CFR § 1.662(a)

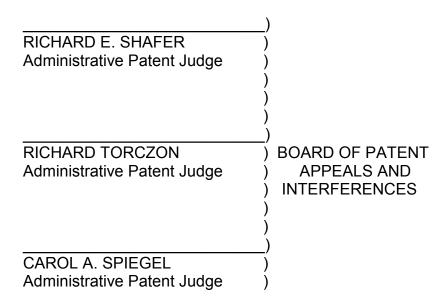
Junior "Party Incyte here abandons contest in this interference" (Paper 133). Accordingly, it is

ORDERED that judgment on priority as to both Counts 2 and 3 (Paper 94, p. 2) is awarded against junior party OLGA BANDMAN and JENNIFER L. HILLMAN (Incyte);

FURTHER ORDERED that junior party OLGA BANDMAN and JENNIFER L. HILLMAN (**Incyte**) is not entitled to a patent containing claims 2 and 3-9 (corresponding to Counts 2 and 3, respectively) of U.S. Patent 5,780,235;

FURTHER ORDERED that a copy of this decision (Paper 134) and of the ORDER REDECLARING INTERFERENCE mailed August 14, 2002 (Paper 94) be given paper numbers and entered in the administrative record of Incyte U.S. Patent 5,780,235 and of Falb application 08/826,248; and

FURTHER ORDERED that if there is a settlement agreement which has not been filed, attention is directed to 35 U.S.C. § 135(c) and 37 CFR § 1.661.



cc (via fax and first class mail):

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